

**Tennessee Board of Architectural and Engineering Examiners
Board Meeting
Davy Crockett Tower
Nashville, Tennessee**

January 25, 2007

Board Members Present

Sharon Byrd, Public Member
Bob Campbell, Professional Engineer
Philip Lim, Professional Engineer
John Love, Registered Landscape Architect
David Schuermann, Registered Architect
Bill Stockard, Professional Engineer
Richard Thompson, Registered Architect

Board Members Absent

James Hastings, Registered Architect
Dana Miller, Registered Interior Designer

Associate Board Members Present

Carlton Norris, Professional Engineer
Dennis Henderson, Professional Engineer
Raymond White, Professional Engineer

Staff Present

Christy Allen, Legal Counsel
John Cothron, Executive Director
Wanda Garner, Administrative Assistant

Guests

Don Baltimore, Tennessee Interior Design Coalition (TIDC)
Candy Toler, Tennessee Society of Professional Engineers/American Council of
Engineering Companies of Tennessee (TSPE/ACEC-TN)

CALL TO ORDER

Mr. Love, chair, called the meeting to order at 9:05 a.m. Roll call determined that a quorum was present.

Mr. Lim, seconded by Mr. Schuermann, moved to accept the agenda as presented. The motion passed unanimously.

A Conflict of Interest Statement (attached) was read and signed by Board members.

RULEMAKING HEARING

Mr. Love turned the meeting over to Christy Allen, Legal Counsel to the Board, who called the rulemaking hearing to order at 9:15 a.m.

Purpose of the Rulemaking Hearing

Ms. Allen pointed out that the purpose of this hearing is to consider the promulgation of rules and amendments to rules pursuant to *Tennessee Code Annotated*, 62-2-203(c) and conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated*, 4-5-204. Upon conclusion of the hearing and adoption of the proposed rules, they will be forwarded to the Attorney General's office for review of their legality. If approved, they will then be filed with the Secretary of State and the Government Operations Committee of the General Assembly. The effective date of the rules will be 75 days after filing with the Secretary of State's office.

Notice of the Rulemaking Hearing

Notice of the hearing was published in the December 2006 issue of the *Tennessee Administrative Register*. Mr. Cothron stated that a notice was published in the Fall/Winter edition of the newsletter, *Tennessee Design Lines*, which was posted on the Board's website and sent electronically to all current registrants.

Ms. Allen explained the procedure to be followed in the rulemaking hearing and gave a summary of each proposed rule. (Proposed rules are **attached**.)

Written Comments (attached)

1. Lyle Bentley, PE, via e-mail, asked
 - a. What is the Board's long-term plan in regards to a proposal by the National Council of Examiners for Engineering and Surveying (NCEES) to increase the educational requirement by 30 credits of course work;
 - b. Must one submit proof that the continuing education requirement has been met along with the renewal form and fee;
 - c. Does classifying failure to pay the annual privilege tax as misconduct have any practical effect; and
 - d. Who reads the e-mails sent to the Board office?

Board Response

- a. The NCEES proposal to change the educational requirement is not a part of the rulemaking hearing, but the Board will continue to discuss the issue.
- b. Proof of having completed continuing education has always been a prerequisite to renewal as long as the continuing education requirement has been in effect; the Board accepts the registrant's affirmation on the renewal form as proof of having met the continuing education requirement. A registrant who is selected for audit must submit evidence of having completed the required professional development hours (pdh's).
- c. Considering the failure to pay the annual privilege tax as misconduct places in the rules something that already exists and allows the Board to suspend or revoke a certificate of registration.

Candy Toler, TSPE/ACECTN, asked if a registrant must pay the privilege tax prior to renewing his/her license. Ms. Allen responded, "No. This is not a renewal issue; it's a conduct issue."

- d. E-mails received by the Board office are referred to the person(s) who can best attend the request.

2. George Grigg, via e-mail, expressed a concern regarding the rule change to add the administrative cost to the exam and scoring fees now required of the exam applicant.

Board Response

NCEES sets the costs and the Board passes them on to the exam applicant.

Mr. Campbell, seconded by Mr. Lim, moved to accept the proposed rule changes. By roll call, each Board member present voted to approve the motion.

Ms. Allen then adjourned the rulemaking hearing.

Break 9:35-9:45 a.m.

CONSENT AGENDA

Approval of Minutes (attached)

Mr. Campbell, seconded by Mr. Schuermann, moved to accept the minutes of the November 16, 2006 meeting as written. The motion passed unanimously.

Staff Complaint Report (attached)

Mr. Schuermann, seconded by Mr. Lim, moved to accept the recommendations presented in the Complaints for Board Decision. The motion passed unanimously.

PROFESSIONAL SOCIETY REPORTS

Candy Toler, TSPE/ACEC-TN reported that

- Legislative issues deemed watching are bills establishing energy and lighting efficiency codes and codes for housing designated for those 55 years and older;
- the Fire Marshal's Office will have a rulemaking hearing next month to adopt the 2006 International Building Code and the Uniform Fire Code;
- March 5, 2007 is the Legislative Reception at the Sheraton Nashville Downtown; and
- March 6, 2007 is Engineers' Day on the Hill and the Engineering Excellence Awards Banquet.

Don Baltimore, TIDC, reported that a bill to establish an Interior Design Practice Act is being drafted.

DIRECTOR'S REPORT

- Grant contracts have been drafted.
- The University of Tennessee Chattanooga and University of Memphis contracts have been approved and they will be receiving their funds shortly.
- The revised Reference Manual has been printed and mailed.
- The Fall/Winter 2006 newsletter has been distributed electronically to about 60% of the Board's registrants. The printed issue should go out in the next few weeks.
- Staff submitted a budget improvement request to increase the grant appropriation amount from \$175,000 to \$200,000. The Department of Finance and Administration will review the request.

- In the next few months the Board office will be getting a new copier and scanner that will, hopefully, enable staff to scan applications and audits and e-mail them to Board members for review.

Reports giving complaint and licensing data were submitted. (attached)

Board members advised Mr. Cothron that they prefer having the Fall Planning Session on October 10-12, 2007 (tentatively). Staff will look into the possibility of holding the planning session at Natchez Trace State Park.

OLD BUSINESS

ACTION ITEMS (attached)

All action items had been completed.

LEGAL CASE REPORT (Presented by Christy Allen)

Consent Orders (attached)

1. *Randall W. Parham, R.A. # 15350*
Case #L06-AEL-RBS-2006028931 *Complaint #200602893*
Mr. Campbell, seconded by Mr. Schuermann, moved to accept the Consent Order in which Mr. Parham agreed to pay a civil penalty of \$250.00. The motion passed unanimously.
2. *Herbert Campbell, Nonregistrant*
Case #L04-AEL-RBS-2004185761 *Complaint #200418576*
Cast # L05-AEL-RBS-2005001451 *Complaint #200500145*
Mr. Campbell, seconded by Mr. Thompson, moved to accept the Consent Order in which Mr. Herbert Campbell agreed to pay a civil penalty of \$5,000.00. The respondent shall pay one thousand dollars (\$1,000.00) of the civil penalty immediately upon execution of this Consent Order and the remainder no later than thirty days after the effective date of this Consent Order. The motion passed unanimously.

Complaints for Board Disposition (attached)

3. *Case #L06-AEL-RBS-2006035271* *Complaint #200603527*
Mr. Lim, seconded by Mr. Campbell, moved to close the case with a Letter of Caution to the Tennessee registrants who prepared the drawings but did not seal them. The motion passed unanimously.
4. *Case #L06-AEL-RBS-2006039041* *Complaint #200603904*
Mr. Campbell, seconded by Mr. Schuermann, moved to close the case with a letter from the staff attorney regarding the importance of responding to all allegations in the complaint. The motion passed unanimously.
5. *Case #L06-AEL-RBS-2006032311* *Complaint #200603231*
Mr. Campbell, seconded by Mr. Lim, moved to authorize an informal conference. The motion passed unanimously.
6. *Case #L06-AEL-RBS-2006024541* *Complaint #200602454*
Mr. Thompson, seconded by Mr. Campbell, moved to close the case. The motion passed unanimously.

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7. *Case #L06-AEL-RBS-2006044151* *Complaint #200604415*
Mr. Campbell, seconded by Mr. Thompson, moved that Ms. Allen pursue the matter as a title act violation. The motion passed 6-1. Mr. Schuermann voted against the motion.
8. *Case #L03-AEL-RBS-2003119801* *Complaint #200311980*
9. *Case #L03-AEL-RBS-2003146661* *Complaint #200314666*
Mr. Stockard, seconded by Mr. Schuermann, moved to rescind the previously authorized formal hearings and to close the cases with Letters of Instruction. The motion passed unanimously.
10. *Case #L06-AEL-RBS-2006027311* *Complaint #200602731*
Mr. Campbell, seconded by Mr. Lim, moved to authorize an informal conference. The motion passed 5-2. Mr. Thompson and Mr. Schuermann voted against the motion.
11. *Case #L06-AEL-RBS-2006022841* *Complaint #200602284*
Mr. Schuermann, seconded by Mr. Thompson, moved to close the case with a Cease and Desist Letter. The motion passed unanimously.
12. *Case #L07-AEL-RBS-2007048481* *Complaint #200704848*
Mr. Campbell, seconded by Mr. Schuermann, moved to authorize a formal hearing (to be combined with a pending proceeding). The motion passed unanimously.

The meeting adjourned at 10:23 a.m.

ATTACHMENTS

Conflict of Interest Statement
Proposed rule changes
Minutes from the November 16, 2006 Board Meeting
Staff Complaint Report
Complaint Data
License Data
Actions Items
Consent Order of Randall W. Parham, R.A.
Consent Order of Herbert Campbell, Nonregistrant
Complaints for Board Disposition